

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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DARYL PIERCE,

1:16-cv-5107-NLH

Petitioner,

MEMORANDUM OPINION & ORDER

v.

UNITED STATES OF AMERICA,

Respondent.

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**APPEARANCES:**

Daryl Pierce, 05620-067  
FCI Cumberland  
PO Box 1000  
Cumberland, MD 21501  
Petitioner pro se

Diana V. Carrig, Assistant United States Attorney  
Office of the US Attorney  
US Post Office Building  
401 Market Street, 4<sup>th</sup> Floor  
Camden, NJ 08101  
Attorneys for Respondent

**HILLMAN, District Judge**

WHEREAS, Petitioner Daryl Pierce filed a Motion to Vacate, Set Aside or Correct his federal sentence based on the Supreme Court's decision in Johnson v United States, 135 S. Ct. 2551 (2015), see ECF No. 1; and

WHEREAS, on May 15, 2017, Petitioner filed a motion to compel asking the Court to order Respondent to answer the petition in conformance with the terms of Standing Order 16-2

that set briefing schedules for all cases raising claims under Johnson, see ECF No. 5; and

WHEREAS, on May 23, 2017, the Court ordered Respondent United States to answer the petition, see ECF No. 6; and

WHEREAS, Petitioner filed a motion for summary judgment on January 9, 2018 arguing that Respondent had failed to answer the petition, see ECF No. 14. Respondent had filed a motion to dismiss the § 2255 petition on July 17, 2017, see ECF No. 12. The motion to dismiss was denied, but Respondent was given permission to file a second motion to dismiss, see ECF No. 21; and

WHEREAS, Respondent filed a second motion to dismiss on May 7, 2018, see ECF No. 22. Petitioner filed a motion for an extension of time to file a response to the motion on June 8, 2018, see ECF No. 24. He filed his response on June 14, 2018, see ECF No. 25; and

WHEREAS, the Court has since denied the second motion to dismiss and ordered Respondent to file a full and complete answer to the § 2255 petition, see ECF No. 27,

THEREFORE, IT IS on this 29th day of October, 2019

ORDERED that Petitioner's motion to compel (ECF No. 5), motion for summary judgment, (ECF No. 14), and motion for extension of time, (ECF No. 24), are dismissed as moot; and it is further

ORDERED that this Order has no impact on Respondent's time to answer the § 2255 petition; and it is finally

ORDERED that the Clerk of the Court shall serve a copy of this Order on Petitioner by regular first-class mail.

At Camden, New Jersey

s/ Noel L. Hillman  
NOEL L. HILLMAN, U.S.D.J.